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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,444	04/06/2001	Curt V. Avallone	55,279 (20786)	6897

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EXAMINER	
BACKER, FIRMIN	
ART UNIT	PAPER NUMBER

3621

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/828,444	AVALLONE ET AL.
Examiner	Art Unit	
Firmin Backer	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 October 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 44-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 44-80 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

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***Response to Arguments***

1. In view of the Appeal Brief filed on October 27<sup>th</sup>, 2004, PROSECUTION IS HEREBY REOPENED. An action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Applicant's arguments with respect to claims 44-80 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 44-80 rejected under 35 U.S.C. 102(e) as being anticipated by Ananda et al. (U.S. PG Pub No. 2003/0021242)

The applied reference has a common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. As per claim 44 and 68, Ananda et al teach a system (*fig 1*) for providing personalized information (*targeted electronic communication*) to a user (*Panel member, 700*) in a commercial establishment, the system comprising at least one database storing information related to a user, a portable display unit operated by a user in a commercial establishment, the portable display unit having a unique identifier, and the portable display unit comprising a transceiver at least one database, a user interface, a display screen, a microprocessor, and at least one program executable by the microprocessor to enable the portable display unit to receive, store, and display information to a user in a commercial establishment a location tracking system to determine a location of the portable display unit in a commercial establishment, a server computer the server computer being in communication with the location tracking system and the at least one database and the server computer being configured to generate personalized information for a user in a

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commercial establishment based on the location of the portable display unit and the information related to a user stored in the at least one database; and at least one transceiver in communication with the server computer for transmitting the personalized information generated by the server computer to the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

6. As per claim 45, 71, Ananda et al teach a system for providing personalized information wherein the portable display unit comprises a user identification system to determine an identity of a user operating the portable display unit; and the server computer is configured to generate personalized information for an identified user based on the location of the portable display unit, the identity of the user and the information related to a user stored in the at least one database (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

7. As per claim 46, 74, Ananda et al teach a system for providing personalized information wherein the information related to a user includes at least one of a demographic profile of the identified user and a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

8. As per claim 47, 72, Ananda et al teach a system for providing personalized information wherein the user identification system comprises a substrate reader, and the substrate reader is

configured to obtain identifying information on the user from a loyalty card provided to the substrate reader by the user (*see paragraphs 0032, 0033*).

9. As per claim 48, 73, Ananda et al teach a system for providing personalized information wherein the user identification system includes the user interface of the portable display unit, the user interface being configured for a user to enter a personal identification number and associated password into the portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

10. As per claim 49, 76, Ananda et al teach a system for providing personalized information wherein the personalized information includes a personalized shopping list (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

11. As per claim 50, 77, Ananda et al teach a system for providing personalized information wherein the personalized information further includes information on products on the personalized shopping list that are located in proximity to the location of the portable display unit (*see paragraphs 0032, 0033*).

12. As per claim 51, 75, Ananda et al teach a system for providing personalized information wherein the information related to a user further includes at least one selected from a group consisting of targeted advertisements, health information, nutritional information, promotional

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offers, offers on sale items, offers on discounted items, information on similar or associated items, manufacturer's coupons, storewide coupons, information on user specific favorite items, and information on user specific staple items (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

13. As per claim 52, Ananda et al teach a system for providing personalized information wherein the information related to a user includes the demographic profile of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

14. As per claim 53, Ananda et al teach a system for providing personalized information wherein the demographic profile of the identified user is determined from a questionnaire completed by the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

15. As per claim 54, Ananda et al teach a system for providing personalized information wherein the information related to a user includes a shopping history of the identified user (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

16. As per claim 55 and 69, Ananda et al teach a system for providing personalized information wherein the location tracking system further comprises at least one receiver for

receiving a unique identifier transmitted by the portable display unit, a position calculating system for calculating position data relating to a location of the portable display unit in a commercial establishment using the unique identifier of the portable display unit received by the at least one receiver; and at least one controller for transmitting position data relating to the location of the portable display unit generated by the position calculating system to the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

17. As per claim 56 and 70, Ananda et al teach a system for providing personalized information wherein the position calculating system calculates the position data relating to the location of the portable display unit in a commercial establishment by at least one of biangulation techniques or triangulation techniques (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*)

18. As per claim 57, Ananda et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes a radio frequency (RF) identification signal (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

19. As per claim 58, Ananda et al teach a system for providing personalized information wherein the unique identifier of the portable display unit includes an infrared identification

signal (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

20. As per claim 59, Ananda et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transponders located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

21. As per claim 60, Ananda et al teach a system for providing personalized information wherein the at least one receiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

22. As per claim 61, Ananda et al teach a system for providing personalized information wherein the at least one transceiver includes a plurality of transceivers located at discrete locations throughout a commercial establishment (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

23. As per claim 62, Ananda et al teach a system for providing personalized information wherein the portable display unit comprises a scanning device and the scanning device is configured to read product barcodes scanned by the identified user (*see abstract, paragraphs*

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*0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069).*

24. As per claim 63, 78, Ananda et al teach a system for providing personalized information wherein the at least one transmitter transmits the personalized information to the portable display unit using a wireless local area net (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

25. As per claim 64, 79, Ananda et al teach a system for providing personalized information wherein the portable display unit further includes a microphone and a speaker, the server computer is configured to generate audio signals incorporating the personalized information for a user; and the microprocessor of the portable display unit is configured to play on the speaker the audio signals incorporating the personalized information (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

26. As per claim 65, 80, Ananda et al teach a system for providing personalized information wherein the at least one transceiver transmits the personalized information to the portable display unit as a web page using hypertext markup language (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

27. As per claim 66, Ananda et al teach a system for providing personalized information wherein the server computer is configured to permit a user to access the Internet using the

portable display unit (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

28. As per claim 67, Ananda et al teach a system for providing personalized information wherein the transceiver of the portable display unit and the at least one transceiver are wirelessly connected to permit two-way communication between the portable display unit and the server computer (*see abstract, paragraphs 0003, 0007, 0009, 00011, 0012, 0013, 0026, 0027, 0028, 0035, 0037, 0041, 0043, 0044, 0062, 0065, 0069*).

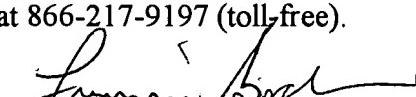
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Backer  
Primary Examiner  
Art Unit 3621

January 6, 2005